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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,259	02/06/2004	Mark J. Kline	8637C	8666

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EXAMINER

CRAIG, PAULA L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/774,259	Applicant(s) KLINE ET AL.	
	Examiner Paula L. Craig	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The rejection of Claim 7 is withdrawn as moot. As to the rejections of Claims 14 and 17 under 35 U.S.C. 102(b) over EP '243, of Claims 1, 8, 15-16, and 21 under 35 U.S.C. 103(a) over EP '243 in view of Kline '545, and of Claims 18-19 under 35 U.S.C. 103(a) over EP '243 in view of Buell, and of Claim 20 under 35 U.S.C. 103(a) over EP '243 in view of Schaar, are **maintained** for the reasons of record. Applicant's arguments filed January 26, 2006 have been fully considered but they are not persuasive. As to Claims 14 and 17-20, EP '243 teaches a hinge line (the line between the bonded region 20 and the non-bonded region 18, Figs. 3 and 4). As to Claims 1, 7-8, 15-16, and 21, EP '243 teaches all the limitations of Claim 1, except for the hinge line being disposed at an angle less than 90 degrees relative to the primary direction of load bearing, as indicated in paragraph 17 of the prior action mailed November 30, 2005. Kline teaches this limitation. Kline teaches that the hinge line of the first fastening element may or may not be angled (col. 22, lines 48-53). Kline teaches that angling the hinge line is advantageous in improving fit and avoiding skin marking (col. 22, line 48 to col. 23, line 4). In addition, Kline is highly analogous art. Kline teaches nearly all the other limitations of Claim 1, including a first fastening element with a liftable portion, and a second fastening element. The liftable portion of Kline may not only include the unbonded corners as shown in Figs. 9A-9D, but also includes the remainder of the side panel of the diaper, which may be lifted away from the article. Kline does not teach the

liftable portion lifting away from the article when the first and second fastening element are engaged and encounter a load in the z-direction relative to the primary direction of load bearing. EP '243 teaches that having the liftable portion lift away from the article when the first and second fastening element are engaged and encounter a load in the z-direction relative to the primary direction of load bearing is desirable, in that this configuration prevents the first fastening element from being unintentionally released (col. 1, lines 41-54 and col. 4, lines 41-51). Motivation therefore exists in both references to combine their teachings.

2. As to the rejections of Claims 5-6 and 12-13 under 35 U.S.C. 102(b) over EP '243, and Claim 11 under 35 U.S.C. 103(a) over EP '243, Applicant's arguments presented in the response filed January 26, 2006 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, new grounds of rejection are made; see below.

Claim Objections

3. Claim 5 is objected to because of the following informalities: For Claim 5, lines 1-2, "centerline a surface" should be "centerline and a surface". Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 5-6 and 11-13 are rejected under 35 U.S.C. 103(a) over EP '243 in view of Kline '545.
6. EP '243 teaches all the limitations of Claims 5-6 and 11-13, as indicated in the prior Office Action, with the exception of the hinge line intersecting the longitudinal centerline, and for Claim 11 the peel load capacity during use being greater than or equal to about 1000 grams. Kline teaches the hinge line intersecting the longitudinal centerline, as indicated in paragraph 17 of the prior Office Action. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify EP '243 to include the hinge line intersecting the longitudinal centerline, for the same reasons as indicated in paragraph 17 of the prior Office Action, and in paragraph 1 above. For Claim 11, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the peel load capacity during use being greater than or equal to about 1000 grams, for the same reasons as indicated in paragraph 15 of the prior Office Action.

Allowable Subject Matter

7. Claim 22 is allowed. Claims 2-4, 9, and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The closest

prior art is considered to be EP '243, Kline '545, Stevens, and U.S. Patent Nos. 5,286,112 to Bible and 6,102,901 to Lord et al. "Article" is defined in the specification as a bib, diaper, sanitary napkin, utility belt, sling, absorbent article, or other device which carries load through a surface fastening system when the fastening elements are engaged. EP '243 teaches an article with a surface fastening system having first fastening element which has liftable and attached portions with a hinge line between the liftable and attached portions; and a second fastening element which is releasably engageable with the liftable portion of the first fastening element, with the liftable portion lifting when the first and second fastening element are engaged and encountering a load in the z-direction relative to the primary direction of load bearing. EP '243 does not teach the hinge line being at an angle less than 90 degrees relative to the primary direction of load bearing. Kline '545 teaches an article having a surface fastening system with a first fastening element at an angle of less than 90 degrees relative to the primary direction of load bearing. Kline does not teach the liftable portion lifting away from the article when the first and second fastening element are engaged and encounter a load in the z-direction relative to the primary direction of load bearing. Bible and Lord teach fastening elements with attached and liftable portions. None of the references teach both the first and the second fastening elements having attached and liftable portions in addition to the other limitations.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571)272-5964. The examiner can normally be reached on 8:30AM-5:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571)272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paula L Craig
Examiner
Art Unit 3761

PLC

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER
